

## JENKINS MULLIGAN & GABRIEL L.L.P.

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

FLETCHER HARTWELL HYLER and  
SHERYL ROOT HYLER,

**Case No.: 07-CV-03180 WHA**

## Plaintiffs,

**DECLARATION OF DANIEL J.  
MULLIGAN IN SUPPORT OF EX  
PARTE MOTION FOR TEMPORARY  
RESTRAINING ORDER**

VS.

INVESTMENT GRADE LOANS, INC.,  
et.al.,

## Defendants.

I, Daniel J. Mulligan, am the attorney for Fletcher Hartwell Hyler and Sheryl Root Hyler (hereinafter “Plaintiffs”), Plaintiffs in the above-entitled action. In support of Plaintiffs’ ex parte motion for a temporary restraining order, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, I hereby certify as follows:

1. I have attempted to notify counsel for defendants, Mr. Stone, about this application, both by telephone and by e-mail. I also requested, by e-mail, that defendants stipulate to the relief sought by this application. I was advised by Mr. Stone's office that he was in a deposition and may not be available today. I have had no response to my call or my e-mail.

2. As more fully set forth in the motion and accompanying declaration of Mr. Hyler, a trustee sale has been set by defendants. That sale is set for Wednesday, July 18, 2007. Thus, plaintiffs face the immediate loss of their home.

3. This matter was transferred to this Court by the Bankruptcy Court on or about June 22, 2007. since that time, plaintiffs have actively engaged in attempting to refinance this property, to pay off defendants and others. Plaintiffs reasonably believed they had a loan scheduled to close on Friday, July 12 and reached an agreement with defendants on the distribution of the loan proceeds. However, at the last minute, the lender refused to complete the loan.

4. Plaintiffs have several other loans in the negotiation stage but these cannot be completed in time to halt the foreclosure.

5. Attached hereto as Exhibit 1 is a true and correct copy of a memorandum on this case filed by the trustee in bankruptcy.

Declared under penalty of perjury under the laws of the United States this 16<sup>th</sup> day of July at San Francisco, California.

/s/ Daniel J. Mulligan